

§ 1421.400

7 CFR Ch. XIV (1-1-06 Edition)

§ 1421.400 Applicability and abbreviations.

(a) This subpart sets forth the terms and conditions under which an entity which is a marketing association of peanut producers, or a subsidiary of such an entity, may qualify to become an eligible “designated marketing association” or “DMA” qualified to process peanut marketing assistance loans and peanut loan deficiency payments for peanut producers. This subpart only applies with respect to peanut loans and peanut loan deficiency payments. This subpart also specifies when storage credit will begin with respect to peanuts under loans handled by designated marketing associations.

(b) In addition to other abbreviations that may be used, the following abbreviations apply to this subpart:

(1) *CCC* means the Commodity Credit Corporation.

(2) *CMA* means cooperative marketing associations which are the subject of regulations in part 1425 of this chapter.

(3) *DMA* means designated marketing associations.

(4) *EWR* means electronic warehouse receipts.

(5) *FSA* means the Farm Service Agency of the U.S. Department of Agriculture.

(6) *LDP* means loan deficiency payments as provided for in this part.

(7) *MAL* means marketing assistance loans as provided in this part.

§ 1421.401 Definitions.

The definitions set forth in this section shall apply for purposes of program administration under this subpart. The terms defined in this part, in part 718 of this title, and in parts 1425 and 1427 of this chapter shall also be applicable, except where those definitions conflict with the definitions in this section.

Administrative County Office is the FSA County Office where a producer’s FSA records are maintained.

Control or Recording FSA County Office is the FSA County Office that controls subsidiary files for producers designated as multi-county producers.

Current net worth ratio means current assets minus current liabilities, divided by current liabilities, based on

the financial statement provided in connection with a DMA application or a recertification for DMA status.

DMA Service County Office is an FSA County Office designated by CCC to accept, process, and disburse bundled peanut MAL’s and LDP’s to a DMA. In the absence of a centralized MAL and LDP processing system for peanuts, a service county FSA office is necessary for entering MAL’s and LDP’s made by DMA’s into CCC accounting systems.

Drawdown account is an account titled to the DMA at a financial institution and funded at the discretion of CCC for the purpose of allowing the DMA to advance funds to producers who have applied for MAL’s and LDP’s before a subsequent MAL or LDP is made to the DMA by an assigned FSA county office.

Electronic warehouse receipt or EWR means a receipt electronically filed in a central filing system by an approved provider as provided in an executed, “Farm Service Agency Provider Agreement to Electronically File and Maintain Warehouse Receipts.”

Security means a certified or cashier’s check payable to CCC, an irrevocable commercial letter of credit in a form acceptable to CCC, a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this part, or other form of security as CCC may deem appropriate.

§ 1421.402 DMA responsibilities.

(a) DMA’s are eligible to process the marketing loans and loan deficiency payments provided for in this part only for peanut producers and only if the DMA and the producers and peanuts meet all eligibility criteria set out in this part, including, but not limited to, the DMA eligibility provisions of this subpart. In carrying out those functions, DMA’s must:

(1) Prepare and execute the appropriate CCC peanut MAL and LDP application documents;

(2) Determine whether producers and the commodity are eligible for MAL’s and LDP’s, including whether the otherwise eligible peanuts are free and clear of all liens which DMA’s shall determine by performing lien searches at DMA’s expense;

(3) Instruct the holder of EWR's, if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;

(4) Receive MAL and LDP documents from a DMA Service County Office;

(5) Disburse peanut MAL's and LDP proceeds to eligible producers;

(6) Prepare and execute documents for MAL repayments;

(7) Collect loan repayments from producers or buyers and transmitting these funds to CCC;

(8) Transmit documents to render forfeited collateral to CCC; and

(9) Collect data for reporting to CCC as required by CCC;

(b) As part of performing the responsibilities in paragraph (a) of this section, DMA's shall:

(1) Become knowledgeable of and follow the procedures in CCC and FSA peanut program regulations, applicable notices published in the FEDERAL REGISTER, applicable FSA peanut program handbooks and amendments thereto, and any applicable notices or instructions issued by FSA and the Agricultural Marketing Service.

(2) Make and service CCC peanut MAL's and LDP's, only upon the presenting by producers or their agents of the warehouse receipts, unless otherwise directed by CCC.

(3) Attend, at the DMA's expense, DMA peanut MAL, and LDP program training offered by CCC.

(4) Provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

§ 1421.403 DMA eligibility to process loans and loan deficiency payments.

(a) A DMA is eligible to process any marketing assistance loan or loan deficiency payments only if approved in advance to handle such matters by the Farm Service Agency pursuant to this part; and:

(1) The DMA meets the financial requirements and other requirements in this subpart and part;

(2) The DMA is comprised solely of peanut producers or is a subsidiary of an organization of peanut producers;

(3) The DMA is not controlled directly or indirectly by a person or enti-

ty that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products;

(4) The DMA does not take title at any time to any peanuts for which it processes loans or loan deficiency payments, irrespective of whether such title is taken before or after those activities are performed. If such title or interest is taken, the DMA shall be responsible to return to CCC the full amount of the CCC proceeds disbursed with respect to the peanuts; and

(5) The DMA meets any additional requirements imposed by CCC or FSA.

(b) The DMA's activities under this part shall be conducted only with respect to peanuts and only for producers and peanuts that meet all the eligibility requirements of this part. Such requirements include, but are not limited to, the requirement of §1421.6 that the producer must have the beneficial interest in the peanuts while the peanuts are under loan or when the loan deficiency payment is received and must be the only person that has had such an interest in the peanuts prior to that time except as allowed by §1421.6.

§ 1421.404 DMA approval.

(a) Entities wishing to apply to be a DMA enabled to perform loan and loan deficiency functions under this part for peanuts must submit an application for such approval to FSA in a form approved by CCC. That application shall include the following:

(1) Two originals of a properly executed Designated Marketing Association agreement containing the terms and conditions prescribed by CCC.

(2) A financial statement of not less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity's financial condition.

(3) The entity's tax identification number.

(4) A copy of any applicable incorporating or partnership documents.

(5) The applicant entity's mailing address, electronic mail address, and telephone number and facsimile number.

(6) Any and all information requested by CCC regarding the DMA's materials,